CANUCK LAW
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APRIL 19, 2024 BY RONNIE

Adam Skelly, Part 3: R.O.A. Challenge Finally To Be Heard?

Ontario Français Menu

SKELLY	WILLIAM	CV22006835920000	Toronto	SKELLY et al v. HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO et al	N	–

Rep Name:	IAN J. PERRY		
Amount:	$0.00	**Case Opened Date:**	2022-06-30
Most Recent Order Type:	N/A	**Most Recent Order Date:**	N/A
Next Event:	Motion on notice	**Next Event Date:**	2024-10-01

Ontario Français Menu

Rep Name:	MICHAEL WILLIAM SWINWOOD		
Amount:	$0.00	**Case Opened Date:**	2020-11-28
Most Recent Order Type:	Order	**Most Recent Order Date:**	2022-02-01
Next Event:	N/A	**Next Event Date:**	N/A

Ontario Français

SKELLY	WILLIAM	CV23007019180000	Toronto	Skelly v. Swinwood et al	N

Surname/Business Name	Given Name	Type
SKELLY	**WILLIAM**	**Plaintiff**
SWINWOOD	MICHAEL	Defendant 1
ELDERS WITHOUT BORDERS	N/A	Defendant 2

Starting on October 1st, 2024, the Ontario Superior Court will finally hear a long delayed challenge to the Reopening Ontario Act, or R.O.A. Of course, this assumes that there are no more setbacks. Given how things have played out so far, there are no guarantees.

This Application is from William Adamson Skelly (a.k.a. Adam Skelly), and stems from his refusal to bend the knee to Doug Ford back in 2020.

Part 1: The Akbarali Decisions
Part 2: Swinwood Malpractice Claim

Due to Michael Swinwood — the former lawyer — screwing up the case in 2021, and then walking away, the matter has been unnecessarily delayed for years. This is in spite of getting several expert witnesses ready to appear.

1. Byram Bridle
2. Douglas Allen
3. Gilbert Berdine
4. Harvey Risch
5. Joel Kettner
6. William Briggs

There are, of course, differences in the reports that have been submitted. However, what they all argue is that this “global pandemic” is vastly overblown. Lockdown measures weren’t needed, nor was there any benefit to society from implementing them.

Now, in the year 2024, why does this still matter? While the so-called “pandemic” may be over, the Reopening Ontario Act is still in effect, even if there aren’t any shutdowns going on.

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Versions
Revoked/spent regulations under this Act
current
October 1, 2020 – (e-Laws currency date)
July 24, 2020 – September 30, 2020
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Here are the provisions being challenged:

> Orders continued
> 2 (1) The orders made under section 7.0.2 or 7.1 of the Emergency Management and Civil Protection Act that have not been revoked as of the day this subsection comes into force are ***continued as valid and effective orders under this Act and cease to be orders under the Emergency Management and Civil Protection Act.***
> .
> Exception
> (2) Subsection (1) does not apply to the order filed as Ontario Regulation 106/20 (Order Made Under the Act — Extensions and Renewals of Orders).
> .
> Clarification
> (3) For greater certainty, an order that is in force is continued under subsection (1) even if, on the day that subsection comes into force, the order does not apply to any area of the Province.

> Power to amend orders
> 4 (1) The Lieutenant Governor in Council may, by order,
> .
> (a) subject to subsections (2) and (5), ***amend a continued section 7.0.2 order in a way*** that would have been authorized under section 7.0.2 of the Emergency Management and Civil Protection Act ***if the COVID-19 declared emergency were still in effect and***

references in that section to the emergency were references to the COVID-19 pandemic and its effects;

.

(b) ***amend an order continued under section 2 to address transitional matters relating to the termination of the COVID-19 declared emergency, the enactment of this Act or the continuation of orders under section 2***.

Provisions applying with respect to orders

7 (1) ***Subsections 7.2 (3) to (8) of the Emergency Management and Civil Protection Act continue to apply***, with necessary modifications, with respect to orders continued under section 2, including any amendments to such orders made under this Act.

.

Same

(2) Subsections 7.0.2 (6) to (9) of the ***Emergency Management and Civil Protection Act continue to apply, with necessary modifications and the modifications specified in subsection (3), with respect to continued section 7.0.2 orders, including any amendments to such orders made under this Act.***

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Modifications

(3) The modifications referred to in subsection (2) are the following:

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1. The reference, in paragraph 1 of subsection 7.0.2 (7) of the Emergency Management and Civil Protection Act, to the emergency is deemed to be a reference to the COVID-19 pandemic and its effects.

.

2. The reference, in paragraph 2 of subsection 7.0.2 (7) of the Emergency Management and Civil Protection Act, to when the declared emergency is terminated is deemed to be a reference to when the order in relation to which that paragraph applies is revoked or ceases to apply.

Temporary closure by police, etc.

9.1 (1) A police officer, special constable or First Nations Constable ***may order that premises be temporarily closed if the police officer, special constable or First Nations Constable has reasonable grounds to believe that an organized public event or other gathering is occurring at the premises and that the number of people in attendance exceeds the number permitted*** under a continued section 7.0.2 order.

Offences
10 (1) Every person who fails to comply with subsection 9.1 (2) or (3) or with a continued section 7.0.2 order or who interferes with or obstructs any person in the exercise of a power or the performance of a duty conferred by such an order is ***guilty of an offence and is liable on conviction***,

.

(a) in the case of an individual, subject to clause (b), to a fine of not more than ***$100,000 and for a term of imprisonment of not more than one year***;

.

(b) in the case of an individual who is a director or officer of a corporation, to a fine of not more than ***$500,000 and for a term of imprisonment of not more than one year; and***

.

(c) in the case of a corporation, to a fine of not more than $10,000,000.

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Separate offence
(2) A person is guilty of a ***separate offence on each day*** that an offence under subsection (1) occurs or continues.

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Increased penalty
(3) Despite the maximum fines set out in subsection (1), the ***court that convicts a person of an offence may increase a fine imposed on the person by an amount equal to the financial benefit that was acquired by or that accrued to the person as a result of the commission of the offence***.

The Reopening Ontario Act may be seen as “sleeper” legislation. While there may be no obvious harm now, it can be used at any time, and under almost any pretense. We have seen this elsewhere, and the public is lulled into a false sense of security, believing the threat to be over.

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Versions
Regulations under this Act
Revoked/spent regulations under this Act
current
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But that's not all. The Health Protection and Promotion Act is also facing a challenge given the heavy handed and unconstitutional manner which it was employed.

> Interpretation
> Directions by M.O.H.
> 24 (1) A ***medical officer of health, in the circumstances specified in subsection*** (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. R.S.O. 1990, c. H.7, s. 24 (1).
> .
> When M.O.H. may give directions
> (2) A ***medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit*** and the person to whom an order is or would be directed under section 22,
> (a) ***has refused to or is not complying with the order***;
> (b) ***is not likely to comply with the order promptly***;
> (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
> (d) ***requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease***.

This is a bit of rabbit hole, but the Ontario Health Protection and Promotion Act is part of a much larger picture. The source material is extensive, but an informative read. To sum it all up:

- Canada signed on to the WHO's legally binding Constitution in 1946
- The International Sanitation Regulations came into effect in 1951
- The International Health Regulations (1st Ed.) came into effect in 1969
- The International Health Regulations (2nd Ed.) came into effect in 1995
- The International Health Regulations (3rd Ed.) came into effect in 2005
- Bill C-12, the Quarantine Act, is Canada's domestic implementation of WHO-IHR 3rd Ed.
- The Provinces implemented their own version of the Quarantine Act, such as HPPA
- The HPPA (really) came from the WHO

See parts 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 from the Canuck Law site.

Now, with all of this in mind, it seems pretty obvious that the Reopening Ontario Act didn't just happen. It was brought in to compliment and help enforce existing public health measures. Our politicians are actors, reading scripts. They weren't responsible for drafting any of this, but they did pass it.

The Concerned Constituents of Canada, or CCOC, is putting this case together, and the documents are readily available. Given that the hearing isn't for several months, there will certainly be updates.

COURT DECISIONS:
(1) Skelly – Restraining Order Deferred Matter
(2) Skelly – Restraining Order Decision, December 2020
(3) Skelly – Criminal Court Limits What He Can Post Online
(4) Skelly – Judge Lacks Jurisdiction To Hear Case, June 2021
(5) Skelly – Costs Of $15,000 Ordered For Failed Motion
(6) Skelly – Costs From 2020 Kimmel Decision, Previously Deferred
(7) Skelly – Motion For Security For Costs Decision, September 2023

2020/2021 COURT DOCUMENTS:
(1) Skelly – Application Record Restraining Order (Michael Swinwood)
(2) Skelly – Notice of Constitutional Question (February)
(3) Skelly – Amended Notice Of Constitutional Question (June)

(4) Skelly – Book of Transcripts – Respondents (Applicants)

(5) Skelly – Book of Transcripts – Respondent on Motion – HMTQ

(6) Skelly – 2021 Motion Factum

(7) Skelly – 2021 Motion Amended Factum – Respondents (Applicants)

(8) Skelly – 2021 Motion Responding Factum

(9) Skelly – 2021 Motion Reply Factum

(1) Skelly – RBC Default Judgement Order

MALPRACTICE SUIT AGAINST MICHAEL SWINWOOD:

(1) Skelly – Swinwood Malpractice Statement Of Claim

NEW APPLICATION DOCUMENTS:

(1) Skelly – Notice Of Application (Ian Perry)

(2) Skelly – Costs – Notice of Motion – Moving Party (Respondent) HMTK

(3) Skelly – Costs – Motion Record-Moving Party (Respondent)

(4) Skelly – Costs – Applicant Responding Motion Record Security For Costs

(5) Skelly – Costs – Factum – Moving Party – HMK

(6) Skelly – Costs – Responding Factum Applicants Skelly et al

EXPERT REPORTS:

(1A) Skelly – Byram Bridle Resume

(1B) Skelly – Byram Bridle Expert Report

(1C) Skelly – Byram Bridle Expert Reply Report

(2A) Skelly – Douglas Allen Resume

(2B) Skelly – Douglas Allen Expert Report

(2C) Skelly – Douglas Allen Expert Report

(3A) Skelly – Gilbert Berdine Resume

(3B) Skelly – Gilbert Berdine Expert Report

(3C) Skelly – Gilbert Berdine Expert Reply Report

(4A) Skelly – Harvey Risch Affidavit

(4B) Skelly – Harvey Risch Expert Report

(5A) Skelly – Joel Kettner Resume

(5B) Skelly – Joel Kettner Expert Report

(5C) Skelly – Joel Kettner Expert Reply Report

(6A) Skelly – William Briggs Resume

(6B) Skelly – William Briggs Expert Report

(6C) Skelly – William Briggs Expert Reply Report

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